

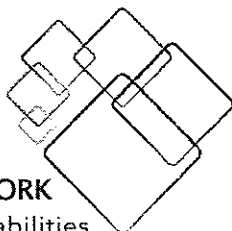
Segregated & Exploited

A Call to Action!



**The Failure of the Disability Service
System to Provide Quality Work**

NATIONAL
DISABILITY RIGHTS
NETWORK
Protection & Advocacy for Individuals with Disabilities



January, 2011

National Disability Rights Network: Protection, Advocacy & Assistance

The National Disability Rights Network (NDRN), is the nonprofit membership organization for the Protection and Advocacy (P&A) system and Client Assistance Program (CAP). The P&A/CAP network was established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. The P&A/CAP network is the largest provider of legally based advocacy services to people with disabilities in the country.

NDRN strives to create a society in which people with disabilities are afforded equal opportunity and are able to fully participate by exercising choice and self determination. It promotes the integrity and capacity of the P&A/CAP national network by providing training, technical assistance, legislative advocacy, and legal support. NDRN advocates for the enactment and vigorous enforcement of laws protecting the civil and human rights of people with disabilities. Reports, like this one, are an integral part of the services NDRN provides to the P&A/CAP network and the disability rights movement in general.

Please visit www.NDRN.org for more information.

Cover photo by WQAD in the Quad Cities, IA (www.wqad.com). Image of the unheated and boarded up bunkhouse where Henry's Turkey Service housed its workers with disabilities.

A Letter from the Executive Director



Dear Friends,

Today, across the United States of America, hundreds of thousands of people with disabilities are being isolated and financially exploited by their employers. Many are segregated away from traditional work and kept out of sight. Most are paid only a fraction of the minimum wage while many company owners make six -figure salaries. Many people profit off of their labor. All, except the worker. For many people with disabilities, their dream of leaving their "job training program" will never come true. They labor away making only a tiny portion of what they should because there is a system in place that provides no true alternatives.

For the past several decades, activists and advocates for disability rights were complacent in our silence. The National Disability Rights Network, included. We fought for and continue to fight for community integration and an end to the abuse and neglect of people with disabilities while neglecting the evidence that segregated settings, sheltered work and sub-minimum wage contradict this effort. Sheltered workshops are not what they promise to be, and sometimes serve as an unsettling example of how good intentions can lead to terrible outcomes.

The truth is that people with disabilities can—and do—work in all areas of the American workforce. They thrive when they fully participate in their communities, and in turn, the nation thrives.

Unfortunately, sheltered workshops and the sub-minimum wage still exist today because of self-interested employers and systematic neglect by federal agencies, buttressed by outdated stereotypes of people with disabilities and the low expectations held by the general public, lawmakers, and, sadly, even some families and the disability rights community. Simply put, sheltered workshops are just another institution segregating people with disabilities away because of our unwillingness to accept that our perceived notions about their ability to work may be wrong.

This call to action is long over-due. It is time to end segregated work, sheltered employment and sub-minimum wage. Now.

Sincerely,



Curtis L. Decker, Esq.

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Commonly Used Phrases

Employment: an activity performed by an individual where there is an expectation of wage for services rendered and the services are primarily for the benefit of the employer.

Work: an activity done on a personal basis to enable personal growth and skills development, improve social interactions, and development of self by contributing to society through volunteerism or increased community interaction and participation in civic events. While there is a valued relationship in this activity, it is not necessarily recognized through financial remuneration.

Competitive Employment: work in the labor market that is performed on a full-time or part-time basis in an integrated setting for which the individual is compensated at or above minimum wage, but not less than the customary and usual wage paid by an employer for the same or similar work performed by individuals who are not disabled.

Supported Employment: competitive work performed in an integrated work setting where individuals are matched to jobs consistent with their strengths, resources, abilities, capabilities, interests, and informed choice, and are provided individualized supports to learn and keep the job.

Sheltered Work Settings: separate environments known as sheltered workshops, affirmative industries, training facilities, and rehabilitation centers which congregate large numbers of people with disabilities and claim to be providing rehabilitation geared toward transition into the general labor market by providing activities that typically involve repetitive tasks; the workshop was designed by parents to give their sons or daughters dignity, self worth, socialization, and most of all respite because parents had peace of mind that their son or daughter was safe, secure, and protected against the risks and demands of the competitive world.

Financial Exploitation: the wrongful taking, withholding, appropriation, or use of the money, real property, or personal property of an individual with a disability.

Sub-minimum Wage: section 14(c) of the Fair Labor Standards Act allows employers to pay individuals less than the minimum wage if they have a physical or mental disability that impairs their earning or productive capacity.

Executive Summary

The National Disability Rights Network (NDRN) has been studying segregated work, sheltered environments, and the sub-minimum wage to determine whether they meet the needs of people with disabilities and whether they comply with federal law. Unfortunately, what we found was disappointing to say the least.

NDRN's Policy Recommendations

Detailed recommendations can be found on page 46.

End Segregated Employment and Sub-minimum Wage for People with Disabilities

- Restrict all federal and state money that is spent on employers who segregate employees with disabilities from the general workforce.
- End the ability of employers to pay employees with disabilities a sub-minimum wage.
- End all programs that emphasize moving young adults from the classroom to a segregated or sub-minimum wage employment environment.

Promote and Facilitate Integrated and Comparable Wage Employment Alternatives

- Strengthen existing and create new federal and state tax incentives for employers to place employees with disabilities in integrated environments at comparable wages.
- Assist employees with disabilities to find employment in the general workforce in jobs that they choose.

Increase Labor Protections and Enforcement

- Fully investigate violations and abuses perpetrated by employers that pay less than the minimum wage or segregate workers with disabilities.
 - Increase penalties for violators.
 - Formalize standards for employee evaluations and productivity measurements.
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The product of this study is our call to action, **"Segregated & Exploited: The Failure of the Disability Service System to Provide Quality Work."**

Through this report, NDRN casts a spotlight on the problems of segregated work, sheltered environments, and sub-minimum wages. This report identifies the barriers to employment that people with disabilities face and dispels myths about their capability to be fully employed, equally compensated, and an integral member of American workplaces and communities. It illustrates a systemic failure to provide hope and opportunity to young people with disabilities who want to transition into traditional work but instead wind up trapped in sheltered workshops with little chance for something different.

In the best of situations, sheltered environments, segregated work, and the sub-minimum wage do not truly provide a meaningful experience for workers with disabilities. Workshop tasks are often menial and repetitive, the environments can be isolating, and the pay is often well below the federal minimum wage. In the worst situations, the segregated and sheltered nature of the lives of workers with disabilities leaves them vulnerable to severe abuse and neglect.

The Problem of Segregated Work, Sheltered Environments & Sub-minimum Wage

The central arguments against segregated and sheltered work, and the sub-minimum wage can be summarized as the following:

- **Segregated Work, Sheltered Environments, & Sub-minimum Wage Directly Contradict National Policy.** The passage of the Americans with Disabilities Act (ADA) in 1990 was a major step in correcting past wrongs faced by people with disabilities. It provides broad protection in employment, transportation, public accommodations, telecommunications, and public services for people with disabilities. In the following two decades, more laws, legal decisions, and state and federal regulations came to be, all making a very clear statement: people with disabilities should live and work independently in their communities. Segregated and sheltered work—by definition—goes against this very principle. But more than that, it keeps people with disabilities marginalized and hidden in the shadows and these environments create opportunities for abuse and neglect to occur. While good national disability policy exists that could remedy this, there is an incomprehensible lack of oversight and enforcement of these good policies.
- **Work Segregation of People with Disabilities is Damaging.** Segregated work facilitates feelings of isolation for many people and impinges on the natural desire to connect with others. Sheltered workshops have replaced institutions in many states as the new warehousing system and are the new favored locations where people with disabilities are sent to occupy their days. People with disabilities deserve the right to live and work independently in their chosen communities. These work settings violate statutes passed to encourage just that.
- **Sub-minimum Wage Reinforces a Life of Poverty for People with Disabilities.** Labor law exemptions for employers of people with disabilities have created jobs that pay as little as 10% of the minimum wage with most workers earning only 50%. Reports on sheltered workshops often show that workers take home about \$175 each month, while those working in traditional jobs take home about \$456 each week. Few workers receive health or other employment benefits typical for the average American worker, and since workers do not have a voice, there is little opportunity to improve their conditions. Yet their employers are reaping the benefits of their labors.
- **Sheltered Workshops Lead Nowhere.** Sheltered workshops are predominantly set up as a type of “job training program” that teaches valuable skills and prepares people to compete for traditional jobs. Unfortunately, the reality is vastly different. They are often taught skills that are

not relevant or transferable to traditional work environments. Even with the dramatic improvements in competitive employment, there remains three individuals in segregated day programs for every one person working in competitive employment.

- **Sheltered Workshops Profit Greatly from the Status Quo.** While many sheltered workshops argue that the cost to provide work for people with disabilities is higher than similar worksites with a labor force consisting largely of people without disabilities, the facts do not support it. Not only are their profit margins protected by statutes allowing them to pay workers far below the minimum wage, they also receive sizeable subsidies from the local, state and federal governments equaling as much as 46% of their annual revenue. Since sheltered workshops don't have to compete in the open market to earn income, they also don't have to do the things other businesses must do like innovate, adapt, and evolve. Sheltered workshops today are not very different than they were when they were started more than 170 years ago—and that is the problem.

Sheltered workshops are often celebrated for providing an altruistic service to their communities while neglecting the fact that in reality they provide workers with disabilities with dead-end jobs, meager wages, and the glimpse of a future containing little else.

Considering these stark realities, it is clear that segregated and sheltered work no longer provides workers with disabilities an opportunity for "life, liberty, and the pursuit of happiness." They may no longer be warehoused in institutions without meaningful daily interactions, but the change may merely be logistical. Segregation—whether it be in an institution or at work—is still segregation.

Separate is still not equal.



Americans with Disabilities Act

Statement of Findings

"Historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem, ... individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society..."